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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,076	12/27/2001	Douglas E. Breese	1-23333	3930

27210 7590 09/15/2003

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

EXAMINER

BINDA, GREGORY JOHN

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,076

Applicant(s)

BREESE ET AL.

Examiner

Greg Binda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 11-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

2. The drawings are objected to as failing to comply 37 CFR 1.83(a) because the drawings fail to show the following claim limitations:

- a. Claims 11 & 22, lines 3: "one rotatably driven front axle"
- b. Claims 11 & 22, lines 3: "one rotatably driven front vehicle wheel"
- c. Claim 11, line 4 and claim 22, line 5: "a rotatably driven rear axle"
- d. Claim 11, line 4 and claim 22, line 5: "one rotatably driven rear vehicle wheel"

3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The specification is objected to as failing to comply with 37 CFR 1.71 and 1.75(d)(1) because the detailed description fails to provide proper antecedent basis for the following claimed subject matter:

- a. Claims 11 & 22, lines 3: "one rotatably driven front axle"
- b. Claims 11 & 22, lines 3: "one rotatably driven front vehicle wheel"
- c. Claim 11, line 4 and claim 22, line 5: "a rotatably driven rear axle"

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- d. Claim 11, line 4 and claim 22, line 5: "one rotatably driven rear vehicle wheel"
- e. Claim 11, lines 6 & 7 and claim 22, lines 8 & 9: "transmits rotational power from the source of rotational power to the front and rear axles"

Claim Objections

- 5. Claim 22 is objected to because
 - a. Claim 22 recites the limitation "said first axle assembly" in line 10. There is insufficient antecedent basis for this limitation in the claim.
 - b. Claim 22 recites the limitation "said second axle assembly" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 112

- 6. Claims 21 & 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has not pointed out where the claimed invention is supported, nor does there appear to be a written description of the claimed invention in the application as originally filed. There is no mention of a transfer case having an input member and two output members comprising any or all of the features recited in either of claims 21 & 22.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 21 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lake et al, US 4,493,387 (Lake) in view of Gleasman et al, US 5,647,802 (Gleasant). In Fig. 1, Lake shows a drive train assembly comprising: a source of rotational power 10; a rotatably driven front axle 56 including at least one rotatably driven front vehicle wheel 66; a rotatably driven rear axle 32 including at least one rotatably driven rear vehicle wheel 36; and a transfer case 14 that transmits power from the source of rotational power 10 to the front and rear axles 56 & 32, the transfer case 14 including an input member 12 that is rotatably driven by the source of rotational power 10, a first output member 22 that rotatably drives the front axle assembly 56, and a second output member 20 that rotatably drives the second axle assembly 32.

In Fig. 1, Lake shows the first output member includes a connecting structure, universal joint, 18, but does not show the connecting structure comprised of male and female members with mating convex splines. In Fig. 2, Gleasant shows a connecting structure comprising male and female members 20 & 10 with mating convex splines. In col. 1, line 38 through col. 2, line 6, Gleasant teaches using a connecting structure like that in his Fig. 2 in place of a universal joint like universal joint 18 of Lake in order to provide a "remarkable", simplified, and improved connecting structure. It would have been obvious to one of ordinary skill in the art to modify the

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drive train assembly of Lake by using a connecting structure comprising male and female members with mating convex splines in place of the universal joint 18 in order to provide a "remarkable", simplified, and improved connecting structure as taught by Gleasman.

Allowable Subject Matter

9. Claims 11-14 are allowed.

Conclusion

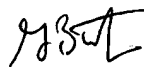
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zalewski et al, Seaman, and Matsumura each show a drive train assembly.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached Monday through Thursday from 9:30 am to 7:00 pm. The examiner can also be reached on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne, can be reached on (703) 308-1159. The fax phone number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



Greg Binda
Primary Examiner
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